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13 *Attorneys for Plaintiff*

14 **IN THE UNITED STATES DISTRICT COURT**  
15 **FOR THE DISTRICT OF MONTANA**  
16 **MISSOULA DIVISION**

17 **ALLIANCE FOR THE WILD**  
18 **ROCKIES,**

19 Plaintiff,

20 CV 17-64-DLC

21 v.

22 **STIPULATION OF DISMISSAL**

23 **ENVIRONMENTAL**  
24 **PROTECTION AGENCY,**  
25 Defendant.

26 The Parties Stipulate as follows:

1. Plaintiff Alliance for the Wild Rockies ("Alliance") filed suit on May 16, 2017 alleging Defendant Environmental Protection Agency's ("EPA") violation of the Endangered Species Act Section 7(a)(2) by failing to reinstitute consultation regarding the effects of the remedial operations of the Silver Bow Creek/Butte

1 Area Superfund Site ("SBCBA") on designated bull trout critical habitat. Doc 1  
2 at 2.

3  
4 2. In its Complaint, Alliance requested this Court to order Defendant to reinstitute  
5 and complete consultation on the remedial operations of the SBCBA. Doc 1 at  
6 7.

7  
8 3. EPA maintains that it has been in and continues to be in compliance with all  
9 applicable federal environmental laws at the SBCBA and that this Court does  
10 not have jurisdiction to review this case.

11  
12 4. On August 30, 2017, the Court granted a stay in this case to allow EPA to  
13 focus on the ongoing Section 7 consultation. Doc 14

14  
15 5. On December 8, 2017 EPA filed an unopposed motion to extend the stay to  
16 allow EPA to complete its biological assessment for the ongoing remedial  
17 actions at the Silver Bow Creek/Butte Area Superfund Site as part of its  
18 Section 7 consultation with the U.S. Fish & Wildlife Service under the  
19 Endangered Species Act. Doc 15.

20  
21 6. On December 11, 2017, the Court extended the stay in this case until February  
22 19, 2018 to allow EPA to continue working on the ongoing Section 7  
23 consultation. Doc 16.

24  
25 7. EPA maintains that it did not waive any argument or defense by entering into  
26 that stay.

- 1 8. On January 31, 2018, EPA transmitted its biological assessment for the current  
2 remedial activities at the SBCBA to the U.S. Fish and Wildlife Service.  
3  
4 9. Alliance maintains that EPA has provided the relief Alliance requested in its  
5 Complaint.  
6  
7 10. Pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(ii), the Parties  
8 stipulate to a dismissal with prejudice of all claims in Alliance's May 16, 2017  
9 Complaint.  
10  
11 11. Alliance reserves its right to file for attorneys' fees and costs pursuant to 16  
12 U.S.C. §1540(g)(4); *Ass'n of Cal. Water Agencies v. Evans*, 386 F.3d 879 (9th  
13 Cir. 2004); and L.R. 54. EPA reserves its rights to oppose Alliance's request.

14  
15 /s/ Kristine M. Akland

16 Kristine M. Akland  
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17 Timothy M. Bechtold  
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19 Attorneys for Plaintiff  
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21 Acting Assistant Attorney General  
22 SETH M. BARSKY, Chief  
MEREDITH L. FLAX, Assistant Chief

23 /s/ Rickey D. Turner, Jr.

24 Trial Attorney  
25 U.S. Department of Justice  
26 Environment & Natural Resources Division  
Wildlife & Marine Resources Section

Attorneys for Defendants

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
MISSOULA DIVISION

ALLIANCE FOR THE WILD  
ROCKIES,

Plaintiff,

v.

ENVIRONMENTAL  
PROTECTION AGENCY,  
Defendant.

CV 17-64-DLC

ORDER

Pursuant to the Parties' Stipulation of Dismissal, this case is dismissed with  
prejudice.

ORDERED this \_\_\_\_ day of \_\_\_\_\_ 2018.

Dana L. Christiansen, Chief Judge  
United States District Court

*WC*  
IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
MISSOULA DIVISION

**FILED**

**FEB 16 2018**

Clerk, U.S. District Court  
District Of Montana  
Missoula

ALLIANCE FOR THE WILD ROCKIES,

CV 17-64-M-DLC

Plaintiffs,

ORDER

vs.

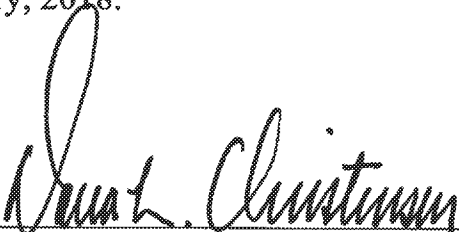
ENVIRONMENTAL PROTECTION  
AGENCY,

Defendant.

Pursuant to the Parties' Stipulation of Dismissal,

IT IS ORDERED that the stipulation (Doc. 17) is GRANTED. This case is  
DISMISSED WITH PREJUDICE.

DATED this 16<sup>th</sup> day of February, 2018.

  
\_\_\_\_\_  
Dana L. Christensen, Chief Judge  
United States District Court

